



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 15, 1996

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Office of the Comptroller of Public Accounts  
LBJ State Office Building  
111 East 17th Street  
Austin, Texas 78774

OR96-0712

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37768.

The Comptroller of Public Accounts (the "Comptroller") received a request for information pertaining to bank account funds that were seized from the requestor and her husband in connection with the couple's failure to pay Controlled Substance Tax. You contend that all information revealing the amount of money seized from the couple's account is deemed confidential under section 111.006(a)(2) of the Tax Code and thus is excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 excepts from required public disclosure information that is made confidential by law, including information made confidential by statute. Section 111.006(a)(2) of the Tax Code provides in pertinent part:

(a) Except as provided by Subsection (d), the following matter is confidential and may not be used publicly, opened to public inspection, or disclosed except as permitted under Subsection (b)<sup>1</sup> of this section:

....

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<sup>1</sup>Subsections (b) and (d) are not relevant to the disposition of this open records request.

(2) all information secured, derived, or obtained by the comptroller or the attorney general during the course of an examination of the taxpayer's books, records, papers, officers, or employees, including an examination of the business affairs, operations, source of income profits, losses, or expenditures of the taxpayer. [Footnote added.]

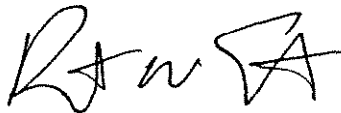
This provision makes confidential information obtained or derived from taxpayers. See *A&T Consultants v. Sharp*, 904 S.W.2d 668 (Tex. 1995). Your explanation that section 111.006(a)(2) applies to the information you seek to withhold is as follows:

Persons dealing in certain illegal narcotics are subject to the Controlled Substance Tax. An individual becomes subject to the tax by possessing, selling or distributing controlled substances listed in § 481.002 of the Health and Safety Code. The amount of controlled substance found in the individual's possession determines the amount of the tax owed. To collect the tax owing, the Comptroller examines financial information held by the taxpayer. This examination may reveal the existence of a checking or saving account, a certificate of deposit, or other means of satisfying the tax liability. The contents of the enclosed documents, the name of the bank, the account number, and the amount paid to the Comptroller, were all derived from an examination of the taxpayer's books, records, papers, business affairs, and sources of income. Thus, we believe the documents may be declared confidential by § 111.006(a)(2) and may be excepted from disclosure by § [552.101] of the [Open Records] Act. [Citations omitted.]

Because the information at issue contains information derived from taxpayers' accounts, the Comptroller must withhold the information you have marked from required public disclosure pursuant to section 552.101 of the Government Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'R. W. Schmidt', with a stylized flourish at the end.

Robert W. Schmidt  
Assistant Attorney General  
Open Records Division

RWS/RWP/rho

Ref.: ID# 37768

Enclosures: Submitted document

cc: Ms. Kayla Castillo  
5900 N.E. CR 1045  
Rice, Texas 75155  
(w/o enclosures)